

June 18, 2020

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Direct Fax 866-202-1728  
jho@cozen.com

**VIA ECF**

The Honorable Analisa Torres  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: Girotto v. GNC Holdings, Inc., et al. (Case No. 19-CV-07718)**

Dear Your Honor:

My firm represents GNC Holdings Inc., in the above-referenced matter. By way of background, this litigation is an ADA public accommodation case. GNC Holdings, Inc., is the tenant of the premise in question. FOX 684 Realty LLC is the landlord. I write on behalf of both Defendants, with the consent of the Plaintiff, in requesting a 60-day enlargement of the discovery deadlines. If granted, fact discovery would close on August 26, 2020 and expert discovery would close October 12, 2020. We respectfully submit the reasons for the request outlined below constitute good cause. This is the Defendants' first request for a stay of discovery although the Plaintiff had previously requested stays, the last of which was dated May 23, 2020 and was granted in part and denied in part.

The request for the stay is based on a number of reasons. First, the COVID-19 pandemic has created significant obstacles in retaining and having the necessary experts physically visit the facility to inspect the premise and determine what needs to be done to install an ADA compliant ramp. GNC has learned through this process that installing an ADA compliant ramp at the location in question is not a "routine" matter given certain physical issues and that, among other things, it appears to require significant work to both the interior and exterior of the store including but not limited to electrical work. GNC is still in the process of attempting to determine exactly what needs to be done and getting appropriate plans to do this work. We believe that as New York continues to re-open and restrictions lessen, we will be in a position to have this analysis done in the next 60 days. The ramp is essentially the only issue in dispute. In addition, GNC has experienced fiscal distress due to COVID-19, as many retailers have, and we expect the additional time period may help provide GNC with the opportunity to fund any agreed-upon remediation and settlement as business begins to recover.

We would like to note for the Court that the undersigned and counsel for the Plaintiff have worked together on these ADA cases before and have historically been able to resolve them in due course by making the required remediation and without the necessity of prolonged discovery. Since we believe we will be able to do so again here once GNC understands what is necessary to install an ADA compliant ramp which will further settlement discussions, the parties would like to avoid what it believes will ultimately be unnecessary depositions and continued fact discovery. This is particularly important given GNC's fiscal situation noted above.

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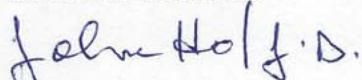
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In addition, a scheduled mediation for today was unexpectedly cancelled earlier this week due to an emergency with the assigned mediator. The parties are currently in the process of selecting additional dates. However, in hopes of increasing the chances of success at the mediation, the parties are seeking to re-schedule it after the 60-day period to provide GNC with the time discussed above. To be blunt Your Honor, we believe the parties will be able to resolve the matter without the need for the mediation but are still working on getting a confirmed date at a time when mediation would be meaningful. This will be GNC's only request for an enlargement of the discovery schedule.

On behalf of all the parties, thank you for considering this request.

Sincerely,

COZEN O'CONNOR



By: John Ho

cc: Bradley Weitz, Esq. Via ECF

GRANTED in part, DENIED in part. The fact discovery deadline is extended by 30 days. By **July 27, 2020**, fact discovery shall be completed. By **September 11, 2020**, expert discovery shall be completed.

The case management conference scheduled for July 9, 2020 is ADJOURNED to **August 12, 2020, at 11:40 a.m.** The conference will be conducted telephonically. The parties are directed to call (888) 398-2342 or (215) 861-0674, and enter access code 5598827. By **August 5, 2020**, the parties shall submit their joint status letter.

SO ORDERED.

Dated: June 19, 2020  
New York, New York



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ANALISA TORRES  
United States District Judge